

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

OP.No. 6904 of 2002(V)

PETITIONER:

KADEEJA BEEVI, PROPRIETRIX,
PANDAKKADA INDUSTRIES, KEEZHMAD, ALUVA,
(ELECTRICAL CONSUMER NO.12123)

BY ADV. SRI.KKM.SHERIF
ANGEL TREENA.K.A.

RESPONDENTS:

1. M/S KERALA STATE ELECTRICITY BOARD,
REP.BY ITS SECRETARY, VYDHYUTHI BHAVAN, PATTOM,
TRIVANDRUM.
2. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, ALUVA.
3. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL TOWN MAJOR SECTION, ALUVA-683 101.

BY ADV. SRI.T.G.RAJENDRAN SC FOR K.S.E.B.
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P.No. 6904/2002

ORDER ON CMP 12204/2002 IN O.P.No. 6904/2002

DISMISSED.

23/03/2007

SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE GO(MS) NO.4/92/PD DATED 06/02/92.

P2 : COPY OF THE ORDER NO.BBI/97-98/ALUVA/496 DATED 4/6/97.

P3 : COPY OF THE GO(MS)NO. 26/99/PD DATED 26/10/99.

P4 : COPY OF THE ORDER DATED 05/05/2001 OF THE 2ND RESPONDENT.

P5 : COPY OF THE BILL NO. 45765 FOR Rs. 2,60,423/- DATED 20/10/2001.

P5(a): COPY OF THE CALCULATION STATEMENT.

P5(b): COPY OF THE ORDER NO.DB2/SQUAD/01-02/1390 DATED 05/10/01 OF THE 3RD RESPONDENT.

P6 : COPY OF THE MEMORANDUM OF APPEAL DATED 15/10/2001.

P7 : COPY OF THE JUDGMENT DATED 23/10/2001 IN O.P.No. 31759/2001(E)

P8 : COPY OF THE ORDER NO.GB.CASES/2001-02/585 DATED 02/02/2002.

P8(a): COPY OF THE ORDER NO.T1/PRE-92 TARIFF/2001-02/622 DATED 04/03/2002.

P8(b): COPY OF THE ORDER NO. BB/2002/26/2/2002.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 6904 of 2002 V

Dated, this the 23rd day of March, 2007

J U D G M E N T

Petitioner is challenging Ext.P8, whereunder the additional bill raised from February 2000 to June 2001 is confirmed by the Asst. Executive Engineer, who is in charge of Executive Engineer hearing appeals. Petitioner's industrial unit was enjoying pre '92 tariff under Government Order for five years i.e. from December 1995 to December 2000. However, the benefit of pre '92 tariff was extended to eligible industries for the period when there was power cut. Accordingly, petitioner got extension for 167 days from 27/12/2000 onwards vide Ext.P4 order to cover the period of power cut suffered by petitioner's industry. Originally 37 KW load was connected to petitioner's industrial unit. Later this was increased to 75 KW by adding 38 KW on 20/01/2000. According to the petitioner while granting extension of pre '92 tariff for the additional period vide Ext.P4, the benefit was extended for the entire connected load of 75 KW. However, the Board while issuing the bill found that Ext.P4 was issued in violation of Board's general order BO 2787/99 dated 16/12/1999, by which pre '92 tariff has

extended to cover the period of power cut, wherein Clause 6 specifically prohibits pre '92 tariff for additional load put into operation from 01/01/97. The additional load of 38 KW was connected to the petitioner's industrial unit on 20/01/2000. Therefore, the petitioner is not entitled to pre '92 tariff based on Board's order above referred. Petitioner is not challenging the said order of the KSEB. Even though the learned counsel for the petitioner pointed out that Ext.P4 covers 75 KW, I find the same is a mistake and is against general order of the Board. Since general orders of the Board cannot be superseded by individual orders for implementing relief, Ext.P4 has to be read along with Board's order dated 16/12/99. In the circumstance, petitioner is entitled to concessional tariff for the extended period only for 37 KW and therefore the additional bill raised for 38 KW from 27/12/2000 upheld in appeal, is perfectly in order. However, I feel having regard to the initial mistake by the Board, no interest should be charged from the petitioner if the balance arrears are paid on or before 30/04/2007 by the petitioner.

This OP is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)